

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 61 OF 2025

S. A. Developers ...Petitioner

Versus

Anuradha Deodatta Mantri ...Respondent

Mr.Kunal Bhanage, for the Petitioner.

Ms. Anuradha Mantri, Respondent No.1 - party in person.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 13, 2025

PC :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 filed in connection with a joint Development Agreement dated February 23, 2024. The Petitioner is a Developer. The Society is Respondent No.2.

2. The core controversy in this matter is about Respondent No.1 being the sole member of the Society who has not committed to vacate the premises and has refrained from executing the Deed of Confirmation / the Permanent Alternate Accommodation Agreement (“**PAAA**”).

3. The Development Agreement, which is between the Developer and the Society has an arbitration clause, which, in the interest of brevity, is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court. The inability of the Society to secure a commitment from Respondent No. 1 to vacate her premises is potentially raising the hood of disputes and differences under the Development Agreement.

4. Respondent No.1, occupies Flat No.31 on the third floor admeasuring 786 square feet. The Respondent No.1 does not live in Flat No. 31. She lives in another flat in another Society in the neighborhood. Flat No. 31, occupied by her, is primarily used to store various belongings of Respondent No. 1. Ownership of Flat No. 31 would entitle Respondent No.1 to Flat No. 501 which would become ready upon redevelopment, with a carpet area of 983 Sq.Ft. along with a pre-identified car parking space.

5. Respondent No.1 is entitled to hardship compensation in the sum of Rs.11,79,000/- payable in installments – 20% upon execution of the PAAA; another 20% when handing over possession; 10% on completion of one year after the receipt of Commencement Certificate

for the project; and the balance 50% along with handing over the redeveloped flat and parking slot.

6. Learned Counsel representing the Developer submits that the aforesaid terms are consistent with *pari passu* treatment of Respondent No.1 with other members of the Society. In addition, he would submit that a sum of Rs.55,000/- per month is payable towards compensation for temporary alternate accommodations with an annual escalation of 5%. Brokerage and reimbursement of one time shifting charge would also be paid in the sum of Rs.55,000/- and Rs.15,000/- respectively, also against execution of the PAAA. Post-dated cheques for compensation for twelve months shall be handed over at the time of handing over the possession.

7. Respondent No.1 has appeared as party in person, and commits to vacate within a period of four weeks. However, she has tendered various documents in respect of which she would request assistance of the Court – these range from effecting changes that she believes are required to be carried out in the property card and land revenue records relating to various ancestral properties which had been owned by her maternal grandfather. Respondent No. 1 has clearly

stated during the hearing that she does not have any objection to the redevelopment and that she will make arrangements to vacate her premises. She only has expectations of assurances that the State owes to citizens to provide information about various properties and to ensure information recorded by the State to be accurate.

8. Respondent No.1 submits that there is a bungalow adjacent to the Society, which was property owned by her maternal grandfather. She had relinquished her interest in such bungalow by way of a Relinquishment Deed dated May 21, 2023 in favour of her cousins. The Development Agreement in question covers both the Society and the bungalow. Respondent No.1 submits that a Partition Deed relating to her maternal grandfather's family that had been registered, has been discovered by her. She would submit that all the details are set out in the Relinquishment Deed executed by her. However, the property card relating to the property in the land revenue records does not record the fact of the Partnership Deed. Respondent No. 1 confirms that she does not claim any entitlement to the redeveloped assets attributable to the bungalow. According to her, the reflection of such partition in the land revenue records is her entitlement as a citizen of the country.

9. The matter was heard at some length. Respondent No.1 stated that she would need four weeks to make arrangements to clear the Flat No. 31 of her belongings. Her request, however, is that the property card should reflect the partition deed before she vacates.

10. Respondent No. 1 also fervently prayed for a video recording of today's hearing and for a transcript of the hearing and her submissions. It was informed to Respondent No. 1 that this Court has an open virtual hearing facility, but does not keep video recordings of the hearings and there is no video recording to provide, or any transcription of the proceedings. Respondent No. 1 has also shown the Court scrolls of century-old horoscopes of her ancestors to show the vintage of the records that she has maintained – since these are not really relevant to the matter at hand, on being asked to specifically indicate to the Court as to what she desires, her core contention is that the property card should reflect an accurate depiction of the history of its ownership.

11. Having heard the parties at significant length, taking on board the request for four weeks' time to vacate Flat No. 31, it would not be necessary to have a detailed adjudication of this Section 9 Petition,

which would work itself out. However, it is evidently necessary to issue directions to enable such working out of the Petition. I am also of the view, having heard Respondent No. 1 at significant length, that the Court would have a duty to ensure that her interests are truly protected and she is indeed given the benefits due to her from the redevelopment.

12. I am of the considered opinion that there is no plausible linkage between updating land revenue records of ancestral properties to the redevelopment project. It is because many of the submissions are irrational that I find it necessary to appoint an advocate as an officer of the Court to examine the documentation relating to the redevelopment and ensure that the Respondent No. 1 is not shortchanged when she is committing to vacate Flat No. 31. In these circumstances, the following order is passed:-

- a) Respondent No.1 shall have a period of ***six weeks*** from the date on which this order is uploaded on the website of this Court to remove her belongings from Flat No. 31. It is made clear that all other members of the Society too shall vacate their premises within the same six-week period to ensure *pari passu* treatment

– the holding out by Respondent No. 1 alone being the basis of moving this Petition;

- b) The Developer shall, ensuring treatment of Respondent No. 1 with all dignity and compassion, without letting the rancour arising out of the delay in committing to vacate Flat No. 31, shall assist Respondent No.1 in identifying appropriate premises to shift her belongings to, and also provide assistance for packing and moving her belongings to her current place of residence or to such alternate premises for storage as identified by Respondent No. 1;
- c) Respondent No.1 shall execute the PAAA no later than the expiry of the aforesaid six week period. All payments due to her concurrent with the execution of the PAAA in accordance with the Development Agreement shall be paid to her. Learned Counsel for the Developer fairly states that the bank details of Respondent No. 1 are available with the Developer and he shall ensure that the amounts due to her are

indeed remitted;

- d) In the unlikely event of the PAAA not being executed by Respondent No. 1, the Court Receiver shall be empowered to execute the PAAA on behalf of Respondent No. 1, which would bind Respondent No. 1. The Court Receiver shall ensure that the amounts due to Respondent No. 1 have been remitted to Respondent No.1 or that payment instruments in favour of Respondent No. 1 are handed over and deposited in the bank account of Respondent No. 1. It is clarified for the avoidance of the doubt that even if the Court Receiver's authority to execute PAAA were to be invoked, the amounts payable to Respondent No.1 would be remitted to Respondent No.1 and not to the Court Receiver;
- e) In the event the Respondent No. 1 does not vacate Flat No. 31 within the deadline fixed hereby (two more weeks have been added to the four-week period offered by Respondent No. 1), the Court Receiver shall

be empowered to take control of Flat No. 31, make an inventory of whatever is found in the premises, and remove whoever else, if at all, is found in the premises and hand over vacant possession to the Developer against execution of the PAAA and receipt of amounts receivable against execution of the PAAA. The aforesaid step shall be taken only when all the other members have vacated their flats – since it is the premise that Respondent No. 1 is the sole member holding out, that forms the basis of all the interventions made in this order;

- f) Ms. Gulnar Mistry, a Learned Advocate of this Court is hereby appointed to review and examine the various documents involved in the redevelopment project to ensure that Respondent No. 1 is given *pari passu* status as per her entitlements under the Development Agreement and related documentation. The Developer's advocates in these proceedings shall provide all necessary assistance and documentation to Ms. Mistry to enable her to

ascertain the aforesaid position;

g) Ms. Mistry, the Learned Advocate shall also review the documents that Respondent No. 1 has brought to bear, in respect of the ancestral properties in respect of which, she seeks assistance for determining the precise status of the property card. Ms. Mistry shall be entitled to take the assistance of any other lawyer to enable identifying what assistance Respondent No. 1 requires in respect of her desire that property cards of various properties truly reflect the position. It is clarified that this role is advisory in nature and Ms. Mistry is not obliged to get involved in execution of the advice she gives to Respondent No. 1. Mr. Bhanage, Learned Counsel for the Developer has fairly and graciously stated that he too would provide assistance in this regard.

13. With the aforesaid directions, this Section 9 Petition is ***finally disposed of***. Although disposed of, it shall be placed for reporting

compliance on *March 28, 2025* under the caption for *“Reporting Compliance”*.

14. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court’s website.

[SOMASEKHAR SUNDARESAN, J.]